

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

EDWARD C. KELLEY,	)	
	)	
Plaintiff,	)	
v.	)	Civil Action No. 07-278 Erie
	)	
MARIE T. VEON, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

Plaintiff's civil rights complaint [5] was received by the Clerk of Court on October 15, 2007 [1] and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. Plaintiff thereafter failed to effectuate service of the complaint.

Accordingly, on March 25, 2008, Judge Baxter entered an Order [10] directing Plaintiff to show cause, on or before April 14, 2008, as to why he had failed to effectuate service of the complaint in accordance with the Federal Rules of Civil Procedure. The order further directed Plaintiff to effectuate service of the complaint upon each of the named Defendants and file with the Court a certificate of service on or before April 14. Plaintiff was advised that failure to comply with the order would result in the dismissal of his case pursuant to Fed. R. Civ. P. 4(m).

The following day, Plaintiff filed a "Motion for Pretrial Summary Judgment" [11] in which he demanded that the Court award him \$7 million in damages within thirty days to correct the injustices perpetrated upon him or else he will "seek asylum in Iran" which, he represents, "will cause the ultimate victory for Ben [sic] Laden" and "will also give the victory for all terrorists, who are against the United States." (Pl.'s Mot. for

Pretrial Summ. Judg. at p. 3.) Plaintiff notes in his motion that he “does not care if [his] political asylum causes world war 3.” (*Id.*)

On May 21, 2008, Judge Baxter filed a report and recommendation [14] that Plaintiff’s complaint be dismissed inasmuch as: (a) Plaintiff had failed to comply with her order of March 25, 2008 and (b) the factors set forth in *Poulis v. State Farm Fire and Casualty Co.*, 747 F.2d 863 (3d Cir. 1984) weigh in favor of a dismissal of the complaint.

On May 28, 2008, Plaintiff filed an objection [15] to the Report and Recommendation, stating that he had never received a copy of Judge Baxter’s March 25, 2008 order and that his noncompliance with the order was unintentional. In light of this representation, the Court will decline to adopt the Chief Magistrate Judge’s Report and Recommendation dated May 21, 2008.

Instead, after de novo review of the Complaint and the documents in the case, including the Report and Recommendation and Plaintiff’s objection thereto, the following order is entered:

AND NOW, this 2nd Day of June, 2008, IT IS HEREBY ORDERED that Plaintiff shall, on or before June 23, 2008, effectuate service of the complaint upon each of the Defendants named therein and file with this Court a certificate of such service. Failure to comply with this Order within such time will result in the dismissal of this case for Plaintiff’s failure to comply with Rule 4(m) of the Federal Rules of Civil Procedure. IT IS FURTHER ORDERED that a copy of this order be sent to Plaintiff, at his address of record, via certified U.S. mail.

IT IS FURTHER ORDERED that Plaintiff's "Motion for Pretrial Summary Judgment" [11] be, and hereby is, DENIED, inasmuch as said motion is patently inappropriate in substance, as well as procedurally premature.

s/ Sean J. McLaughlin  
United States District Judge

cm: all parties of record \_\_\_\_